

IN THE HIGH COURT OF BOMBAY AT GOA  
CIVIL REVISION APPLICATION NO.128/2002

M/s. Balraj Sud,  
Chicalim, Goa 403 711 ..... Petitioner.

V/s.

1. Union of India,  
Through the Chief Engineer,  
Cochin Zone, Naval Base Post,  
Cochin 682 004.

2. Brig. Y.W. Joshi,  
5, Campbell Lines,  
Nehru Road, Lucknow Cantt,  
226 002 U.P. .... Respondents.

Mr. C. Mascarenhas, Advocate for the petitioner.

Mr. E.P. Badrinarayanan, Central Govt. Standing Counsel for the respondents.

CORAM : P.V. KAKADE, J.

DATE : 9<sup>TH</sup> AUGUST, 2006.

ORAL JUDGMENT :

Heard learned Counsel for both sides. Perused the record.

2. The present proceeding is preferred against the order passed by the Civil Judge, Senior Division, Vasco da Gama, Goa in Civil Misc. Application No.158/1991/A, rejecting the preliminary objection raised by the petitioner regarding proper presentation of the award.

3. It appears from the record that the Arbitrator had filed the award and was pending for finalisation before the lower Court, at which time the petitioner filed the preliminary objection raising point of maintainability of the award as the same was not filed personally by the Arbitrator Shri Y.W. Joshi. It was urged before the lower Court by the present petitioner that the award was required specifically to be filed by the person who made it, so as to give a legal standing to the award and, therefore, rejection of the award was sought for by raising preliminary objection.

4. After hearing both the parties, the learned lower Court Judge came to the conclusion that the Arbitrator Mr. Y.W. Joshi had duly authorised Mr. Mahesh Prasad to file the award in the Court and, therefore, the preliminary objection came to be rejected and hence, the present proceeding.

5. Mr. Mascarenhas, learned Counsel for the petitioner vehemently urged that the presentation of the award has to be within the four corners of the provision of Section 14(2) of the Arbitration Act, 1940 ('the Act' for short). However, a perusal of the said provision shows that the Arbitrator is required to cause presentation of the Award to the Court and no specific mode of presentation is provided either by the said provision of section 14 of the Act or by any other provision under the Act. My attention was invited by the learned Counsel for the petitioner to two Supreme Court rulings in support of his submissions. He sought to put reliance on the ratio laid down by the Apex Court in the case of **Secretary to Govt. of Karnataka & Anr. Vs. V. Harishbabu.**, 1996(6) Supreme 27 and in the case of **Binod Bihari Singh vs. Union of India**, AIR 1993 SC 1245. Perusal of the ratio laid down by the Apex Court in both these case shows that the entire scope of various provisions of the Act was referred to, including the scheme of Sections 14 and 17 therein. However, the Supreme Court has, nowhere, observed that the award was required to be presented by the Arbitrator to the Court. It was also submitted on behalf of the petitioner that there cannot be any implied authority for filing

award by the Arbitrator through anybody and authorisation is required to be specific if the award is to be presented through somebody. In this regard my attention was drawn by the learned Counsel for the petitioner to various documents on record including the authority letter dated 7.8.2000, which shows that one Mr. Y.W. Joshi was authorised by the Arbitrator to present the award before the Court. This aspect is again supported by the affidavit of Mr. Mahesh Prasad dated 11.9.2000. Therefore, by no stretch of imagination, it can be said that there was no specific authority given by the Arbitrator to anybody to present the award. Therefore, I am inclined to hold that the order passed by the lower Court rejecting the preliminary objection raised by the present petitioner is just and valid and cannot be disturbed at all.

6. The learned Counsel for the petitioner, in order to salvage his cause, further submitted that the award was not presented within the period of limitation. However, this aspect cannot be taken into account at this stage, especially when this point was not at all raised before the lower Court, nor was agitated in any manner whatsoever and therefore, cannot be considered in this revision application.

7. In the result, the civil revision application stands dismissed with no order as to costs.

P.V. KAKADE, J.

ssm.